

Township of Lucan Biddulph

BY-LAW NO 53-2007

Being a by-law to provide for the filling up, draining, cleaning and clearing of land, and clearing of refuse from land for the Township of Lucan Biddulph, County of Middlesex

“Tidy Yard By-Law”

WHEREAS Section 11(2) of the *Municipal Act*, 2001 provides that a Municipality may pass by-laws respecting matters for purposes related to the health, safety, and well-being of the inhabitants of the Municipality, and Section 11(3) of the *Municipal Act*, 2001 provides that a Municipality may pass by-laws respecting matters within the sphere of jurisdiction of drainage and flood control and waste management;

AND WHEREAS Section 127 of the *Municipal Act*, 2001 provides that a municipality may require the owner or occupant of land to clean and clear the land, not including buildings, or to clear refuse or debris from the land, not including buildings;

AND WHEREAS Section 127 of the *Municipal Act*, 2001 provides that a municipality may regulate when and how matters required under the by-law may be done;

AND WHEREAS Section 127 of the *Municipal Act*, 2001 provides that a municipality may prohibit the depositing of refuse or debris on land without the consent of the owner or occupant of the land;

AND WHEREAS Section 127 of the *Municipal Act*, 2001 provides that a municipality may define “refuse” for the purpose of the by-law;

AND WHEREAS Section 128 of the *Municipal Act*, 2001 provides that a municipality may prohibit and regulate with respect to public nuisances, including matters that, in the opinion of Council, are or could become or cause public nuisances, and it is the opinion of Council that the failure to clear refuse and debris from land is a public nuisance, including the spread of vermin;

AND WHEREAS Section 127 of the *Municipal Act*, 2001 provides that a Municipality may regulate when and how the owner or occupant of land cleans and clears the land or to clear refuse or debris from the land;

AND WHEREAS Section 425(1) of the *Municipal Act*, 2001 provides that a Municipality may pass by-laws providing that a person who contravenes a by-law of a Municipality passed under this act is guilty of an offense;

AND WHEREAS Section 446(2) of the *Municipal Act*, 2001 provides that a Municipality may enter upon land at any reasonable time for the purpose of doing the matter or thing that a person was directed or required to do and defaulted in so doing;

AND WHEREAS Section 446(3) of the *Municipal Act*, 2001 provides that the Municipality may recover the costs of doing a matter or thing as provided for in Section 446(1) of the Act, from the person directed or required to do it by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes;

AND WHEREAS the *Police Services Act*, R.S.O. 1990, Section 15 authorizes the municipality to appoint persons to enforce the by-laws of a municipality and that Municipal Law Enforcement Officers are Peace Officers for the purpose of enforcing municipal by-laws;

THEREFORE the Municipal Council for the Municipality of Lucan Biddulph enacts as follows:

Part 1 DEFINITIONS

1. Definitions

1.1 In this by-law, the following definitions shall apply:

Agricultural purposes

“Agricultural purposes” shall mean that the land used for cultivating soil, producing crops and for the raising of livestock as an “agriculture operation” as defined in the *Farming and Food Production Protection Act*, 1998, S.O. 1998, c.1, but does not include the portion of land used as a woodlot;

Border

“border” shall mean the cleared land between the side and/or rear property line and a naturalized area or wildflower meadow.

Buffer Strip

“buffer strip” shall mean a border of a minimum of 0.9 m wide that delineates a wild flower meadow or naturalized area.

Cleared

“cleared” includes the removal of weeds or grass more than 20 centimetres (8 inches) in height and the removal of stock piles of soil or other aggregate material not required to complete the grading of the lot on which the stock pile is located, and includes the draining, the treatment and/or the disposing of water on any property where there is a swimming pool which is a health or safety hazard, or is malodorous or is a breeding place for mosquitoes;

Composting

“Composting” shall mean the biological degradation or breakdown of organic material into a dark soil-like material called humus;

Composting Container

“Composting Container” shall mean the holding unit used to store yard, garden and household waste for the purpose of composting;

Domestic Waste

“domestic waste” shall mean any article, thing, matter or effluent belonging to or associated with a residence, household or dwelling unit that appears to be waste material and includes but is not limited to the following classes of waste material:

- (a) grass clippings, tree cuttings, brush, leaves and garden refuse;
- (b) paper, cardboard, clothing;
- (c) all kitchen and table waste, of animal or vegetable origin resulting from the preparation or consumption of food except any material of vegetable origin placed in a composting container;
- (d) cans, glass, plastic containers, dishes;
- (e) new or used material resulting from or for the purpose of construction, alteration, repair or demolition of any building or structure;
- (f) refrigerators, freezers, stoves or other appliances and furniture;
- (g) furnaces, furnace parts, pipes, fittings to pipes, water or fuel tanks;
- (h) unlicensed motor vehicle, inoperative motor vehicle, vehicle motor parts and accessories, vehicle tires mounted or unmounted on rims, mechanical equipment;
- (i) rubble, inert fill, fencing materials.

Enforcement Officer

“Enforcement Officer” means a police officer or a municipal law enforcement officer of the Municipality of Lucan Biddulph;

Industrial Waste

“industrial waste” shall mean any article, thing, matter or effluent belonging to or associated with industry or commerce or concerning or relating to manufacture or concerning or relating to any trade, business, calling or occupation that appears to be waste material and includes but is not limited to the following classes of waste material:

- (a) piping, tubing, conduits, cable fittings or other accessories, or adjuncts to the piping, tubing, conduits or cable;
- (b) containers of any size, type or composition;
- (c) rubble, inert fill;
- (d) mechanical equipment, mechanical parts, accessories or adjuncts to mechanical equipment;
- (e) articles, things, matter, effluent which are derived from or are constituted from or consist of,
 - (i) agricultural, animal, vegetable, paper, lumber or wood products; or
 - (ii) mineral, metal or chemical products;

whether or not the products are manufactured or otherwise processed;
- (f) bones, feathers, hides;
- (g) paper or cardboard packaging or wrapping;
- (h) material resulting from, or as part of, construction or demolition projects;
- (i) unlicensed motor vehicle, inoperative motor vehicle, vehicle parts and accessories, vehicle tires mounted or unmounted on rims, mechanical equipment.

Inoperative Motor Vehicle

“Inoperative Motor Vehicle” shall mean a licensed or unlicensed vehicle, having missing, damaged, deteriorated or removed parts of, including, but not limited to: wheels, motor transmission, doors, glass or other parts or mechanical equipment necessary for its safe operation;

Land

“land” includes yards, vacant lots or any part of a lot which is not beneath a building;

Municipality

“Municipality” shall mean the Municipality of Lucan Biddulph;

Naturalized Area

“naturalized area” means a portion of a lot where a lawn or perennial garden previously maintained by the owner which has been allowed to re-establish a reproducing population of native species, through a combination of natural regeneration and deliberate plantings of species or other species to emulate a natural area;

Owner

“owner” includes lessee and occupant of the land;

Perennial Garden

“perennial gardens” means an area deliberately implemented to produce ground cover, including wild flowers, shrubs, perennials, ornamental grasses or combinations of them, but does not include a wildflower meadow or a naturalized area;

Refuse

“refuse” means any article, thing, matter, substance or effluent that: has been cast aside, discharged or abandoned or; is discarded from its usual and intended use or; is used up, in whole or in part, or expended or worn out in whole or in part; and shall include domestic waste

and industrial waste; and that domestic waste and/or industrial waste does not cease to be refuse by reason that it may be commercially saleable or recyclable;

Rubble

“rubble” includes broken concrete, bricks, broken asphalt, patio or sidewalk slabs;

Unlicensed

“unlicensed” shall mean the lack of a currently validated permit for the motor vehicle within the meaning of the *Highway Traffic Act*, displayed on the motor vehicle;

Unlicensed Motor Vehicle

“unlicensed motor vehicle” shall mean a motor vehicle that is unlicensed (unless in accordance with the Municipality’s Zoning By-law);

Wildflower Meadow

“wildflower meadow” means a specialized habitat within a naturalized area, which is dominated by native species of flowers and grasses. The area would require periodic mowing (once or twice per year) in order to prevent the growth and establishment of woody shrubs and trees;

Woodlot

“woodlot” shall mean an area of trees in excess of 0.2 hectares.

**Part 2
GENERAL PROVISIONS**

2.1 Administration – by Planning and Development Department

2.2 Excavations – filled – exception – enclosed by barrier

Every owner shall fill in any excavation on the land to an adjacent grade with non-contaminated fill unless:

- (a) the excavation is enclosed completely by a fence having a minimum height of at least 122 centimetres or 48 inches in height.
- (b) construction is proceeding for which a valid building permit has been issued.

2.3 Water – exceeding 30 cm – drained exception

Every owner shall drain land of the accumulations of water that exceed 30 centimetres (12 inches) in depth unless:

- a) it is completely enclosed by a temporary barrier of at least 122 centimetres 48 inches in height;
- b) the water constitutes a storm water management pond approved by the Municipality;
- c) the water constitutes a natural body of water or results from the periodic flooding of a natural water course;
- d) the water constitutes a water garden or fish pond;
- e) the water constitutes a private drain or a municipal drain.

2.4 Land – clean – cleared – free of refuse

Every owner shall keep his land clean, cleared and free of refuse.

2.5 Dumping – prohibited – without lawful authority

No person shall throw, place, dump or deposit refuse on private property or municipal property without lawful authority.

2.6 Swimming pool – maintained

Every owner shall keep or maintain the water in a swimming pool in a condition which is not a health or safety hazard, or is malodorous, or is a breeding place for mosquitoes.

2.7 Land – removal of refuse

Every owner shall remove refuse from his land.

2.8 Storm water run-off

Storm water run-off from any downspout or any improvise surface shall be directed away from neighbouring properties. Every residential property shall be graded and maintained to prevent ponding or the entry of water into a basement or cellar.

2.9 Ditches, private drains, swells and water courses

Ditches, private drains, swells and water courses shall be maintained to facilitate the unimpeded flow of water and prevent ponding.

2.10 Storm Water or Roof Water Discharge

No storm water or roof water shall be discharged on to a sidewalk, walkway, steps, porches or other pedestrians access to a property which may be hazardous or result in a potential safety risk.

2.11 Weeping tile, foundation, drain, roof drain or land drain

No weeping tile, foundation, drain, roof drain or land drain shall be connected or discharged into any sanitary sewage system or public storm drainage system.

**Part 3
GENERAL PROHIBITIONS**

3.1 Refuse – not cleared – from land – prohibited

No person shall fail to clear land of refuse.

3.2 Excavation – failure to enclose – prohibited

No person shall fail to enclose an excavation with a temporary barrier at least 122 centimetres or 48 inches in height.

3.3 Water – 30 cm deep – failure to drain – prohibited

No person shall fail to drain an accumulation of water exceeding 30 centimetres (12 inches) in depth except as permitted by Section 2.3 herein.

3.4 Private property – refuse – deposit on

No person shall deposit refuse on private property without lawful authority.

3.5 Municipal property – refuse – deposit on

No person shall deposit refuse on Municipal property without lawful authority.

3.6 Water in swimming pool – fail to maintain

No person shall fail to keep or maintain the water in a swimming pool in accordance with the provisions of this by-law.

3.7 Private property – clear buffer strip

No person shall fail to clear a buffer strip.

3.8 Land use - prohibited

No land shall be used as a place to store, keep, display, pile or accumulate in the open any waste, scrap, iron or other scrap metals, used building materials, clothing or household goods, furnishings, fixtures, appliances, or any parts or portions thereof unless such lot is specifically zoned for such purpose.

3.9 Land use

Notwithstanding 3.8 to the contrary, lands may be used for the sale or display of household goods, furnishings, apparel and similar articles provided such sale and display is limited to not more than three (3) days in any calendar year with the exception of any home-made articles, crafts, things or goods made by those residing on the premises provided the sale and display does not exceed thirty-five (35%) percent of the front yard or exterior side yard as defined in the Zoning By-Law.

3.10 Waste – Collection

Waste shall be placed for collection in accordance with the Standards and Regulations of the Municipality. This section shall not apply where:

- (a) the lands are lawfully used for outdoor storage of material in compliance with the applicable Zoning and Licensing By-Laws and Regulations of the Municipality;
- (b) the lands are designated by or operated by the Municipality or the County of Middlesex for the purposes of dumping, disposing, or dispose refuse.

3.11 No obstruction of officer

No person shall hinder or obstruct, or attempt to hinder or obstruct, an Enforcement Officer in the enforcement of the provisions of this by-law.

3.12 Yards – Motor Vehicles

Yards shall be kept free and clear of inoperative motor vehicles and all other dismantled, discarded, wrecked or abandoned vehicles, farm machinery and equipment, railway cars, trailers, boats and street-car bodies and kept free of refuse and of parts of motor vehicles whether inoperative or not unless such property:

- (a) is licensed as a salvage yard pursuant to the Municipality Salvage Yard By-Law; or
- (b) constitutes a waste disposal site to which a certificate of approval or provisional certificate of approval has been issued under the *Environmental Protection Act*, or
- (c) is enclosed in a building;
- (d) constitutes a permitted use and is in conformity with the Zoning By-Law, or otherwise constitutes a legal non-conforming use under the *Planning Act*.

3.13 Permitted Use

Notwithstanding Section 3.12 to the contrary, the use of railway cars, street cars, buses, trucks, trailers, vans and similar motor vehicles or parts thereof may be permitted provided they satisfy the provisions of the Zoning By-Law for accessory buildings and are maintained at the satisfaction of the Municipality.

Part 4 EXEMPTIONS

4.1 Outdoor storage – lawful – exemption

Section 2.5 and 2.6 of this by-law shall not apply to land which is lawfully used for outdoor storage of materials in compliance with the applicable zoning and licensing by-laws and regulations.

4.2 Municipality – dumping – disposal facilities – exemption

Sections 2.5 and 2.6 of this by-law shall not apply to land or structures designated by or operated by the Municipality for the purpose of dumping or disposing of refuse.

4.3 Perennial gardens – exemption

This by-law does not apply to perennial gardens, provided that the perennial gardens are managed in accordance with the *Weed Control Act* and provided that there is no waste.

4.4 Wildflower meadow – exemption

This by-law does not apply to a wildflower meadow or naturalized area provided that those areas are managed in accordance with the *Weed Control Act*, provided that there is no waste, and provided that they do not encroach within the buffer strip.

4.5 Collection of waste – exemption

This by-law does not apply to the placement or collection of waste in accordance with the Municipality's Waste Collection By-law.

Part 5
INSPECTIONS AND NOTICES (See Schedule A)

5.1 Enforcement Officer

The Enforcement Officer may, by notice posted on the land or by pre-paid first class mail sent to the owners of the land or structure, require the owner within the time specified by the notice to take such action as may be necessary to bring the land or structure in compliance with the terms, conditions and requirements of this By-Law.

5.2 Notice

Every notice given by the Enforcement Officer shall identify the land or structure.

5.3 Address

Every notice to an owner or occupant shall be sent to the address shown on the last revised assessment role or to the last known address.

5.4 Inspection

The Enforcement Officer may enter onto or inspect the use of any land for the purpose of determining whether the land complies with the terms, conditions and requirement of this By-Law.

5.5 Inspection Times

All owners shall permit the Enforcement Officer to inspect the land at all reasonable times.

Part 6
ENFORCEMENT (See Schedule A)

6.1 Offence – fine – for contravention

Any person who contravenes any provisions of this by-law is guilty of an offense and is liable to a fine as established from time to time by the Municipality.

6.2 If a person contravenes any provision of this by-law, in addition to any other remedy and to any penalty imposed by the by-law, the contravention may be restrained by application at the instance of the Municipality.

6.3 If a person contravenes any provision of this by-law, the Municipality may make an order requiring the person who contravened the by-law or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred, to discontinue the contravening activity.

6.4 A person who contravenes an order of the Municipality under s. 6(3) is guilty of an offense.

6.5 Where a person has been required to comply with the provisions of the by-law and has not done so, the Municipality may, in default of it being done by the person directed or required to do it, cause it to be done at the person's expense.

6.6 For the purposes of carrying out the purposes of Subsection (1), the Municipality may enter upon the land at any reasonable time.

6.7 Where a person has defaulted in complying with the provisions of Subsections (1) and (2) of this section, the Municipality may recover the costs of doing such thing or matter from the person directed or required to do it by action or by adding the cost to the tax roll and collecting them in the same manner as property taxes.

Part 7
REPEAL - ENACTMENT

7.1 Effective date

This by-law comes into force on September 27th, 2007.

7.2 Short Title

The short title of this by-law shall be the "Tidy Yard By-law".

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 27th DAY OF September, 2007.

Tom McLaughlin,
Mayor

Ronald J. Reymmer,
Administrator-Clerk

**TIDY YARD BY-LAW 53-2007
SCHEDULE "A"**



Township of Lucan Biddulph

33351 Richmond Street
P.O Box 190, Lucan, Ontario N0M 2J0
Phone (519) 227-4491; Fax (519) 227-4998
www.lucanbiddulph.on.ca

Complaint #: _____ Date: _____

Reported by: _____

Address: _____

Phone #: _____

I have a concern about the following property:

Address: _____

Owner: _____

The following are my concerns:

Signature Received by Referred to



Inspection Date: _____

Conditions Found:

Actions Taken:

Letters of Violation Sent: _____

Compliance Achieved Date: _____

Comments: _____

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